IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE SIDE

WRIT PETITIOIN NO. 880 OF 2005

Office Notes, Office Memoranda of Coram, appearances, Court's orders or directions and Registrar's orders	Court's or Judge's orders

Mr. M.M. Sathaye for the petitioner.
None for the respodnents.

CORAM : ANOOP V. MOHTA, J.

DATE : 05.12.2005

. Heard. The present writ petition is against the rejection of amendment application filed by the plaintiff under Order 6 Rule 17 of C.P.C. The suit is pending for specific performance of contract against the defendants 1 to 7. The defendants 1 to 7 have transferred the suit property in favour of defendants 8 to 11, during the pendency of this present petition. The basic prayer is that the sale deed executed in favour of respondents 8 to 11 is not binding upon

them. After going through the amended pleadings, as well as, reasoning given by the appellate Court, I am of the view that in the interest of justice and to avoid the multiplicity of proceedings, it is necessary at this stage itself, when the trial has yet to be commenced, such application need to be considered by the Court, as it is essential to adjudicate the issue in the matter. In view of this, the present writ petition is allowed in terms of prayer clause (b). However, this amendment is subject to keeping all points open. The advocate appearing for the petitioner undertakes to file the affidavit of service, in so far as, respondents 8 to 11 are concerned, even though there is an endorsement from the office that they are served by affixing with bailiff’s remark (not present) and construction work is going on at their address.

. Petition is disposed of accordingly.

(ANOOP V.MOHTA,J.]